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Q. How often -- I mean, do you or does somebody within the department send notices or memos or policies to offices saying, this is what you need to be doing insofar as food stamps is concerned?
A. Yes.
Q. How often do those get sent out?
A. As far as memos, pretty much those all come from me. They may be drafted by our quality staff, but those come from me. As far as actual memos, the last batch that I can remember is early 2009 that I had sent letters to several offices about their performance. The rest of the incidences is we do send out annual corrective action plan or semiannual corrective action plan requests that is done by our quality improvement bureau that says, here's where your numbers are for food stamps, please amend your corrective action plan. And then a lot of it is discussions.
Q. Do you send out -- I mean, under memos, are you including policies, letters, written instructions?
A. Yes, as well as e-mails that I would send out about performance.
Q. So how frequently do you think you're sending those out to offices in regards to their

food stamps processes?
A. Fortunately, very rarely. A year ago it was every month --
Q. Why?
A. -- for various offices. Some offices weren't meeting timeliness criteria, so I did a big push to get that improved and it has. Payment accuracy. Last year we got a federal penalty. This year we got way under the bar of expectations. So the performance statewide has improved significantly.
Q. So are policies or memos issued in response to findings in a corrective action plan? Like what would trigger your sending a policy?
A. A review of performance data.
Q. So how often do you review performance data?
A. For the food stamp program?
Q. Yeah.
A. Every month. Sometimes every week.
Q. And then based on the data, you know, if it looked bad, you send out a letter or a memo?
A. I may.
Q. Okay. You may?
A. I may not.

Q. Or what else would you do?
A. I may also contact the regional manager. I may say, Ted, I need to have patience and wait another month before I react.
Q. When you do reach out to them, do you say, this is what I found, this is what you need to do?
Q. Do you get specific about what they need to do?
A. No.
Q. You don't get specific?
A. No.
Q. So give me a sample conversation, a sample, say, memo or policy you would send to an office because you've looked at their data and it looks bad.
A. Probably a good example was last year with the timeliness that I would send out a letter. I sent a letter to all staff saying, you know, the timeliness expectations of the federal government is that we meet 95 percent timeliness. I notice your data for this last year averaged 83 percent. I am requesting that the office immediately implement a corrective action plan.
Q. Okay. So you did ask for something specific, that they immediately implement a corrective action plan?
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Q. Did you ever send out such a letter or policy to any of the HSD offices in response to low voter registration numbers?
A. I don't remember anything in writing.
Q. Did you ever in a phone call or a discussion tell any office that had low voter registration numbers, that they needed to immediately implement any kind of plan?
A. Again, that was what I indicated earlier.
Q. But no corrective action plan was ever required?
A. Correct.
Q. Before you were the point person for NVRA for HSD, who was doing that?
A. I don't think I can answer that. As indicated, Rachel Moscovitz was doing this and the local offices were the point of contact or the local coordinator or was expected to oversee the county's activities.
Q. But you don't know that there was like an HSD head for NVRA purposes?

A. Yes, we did have someone. Again, we weren't collecting data. And prior to Rachel Moscovitz taking over that, I believe her name was Florence Gonzales, I think, that was designated as the coordinator.
Q. Okay. Do you know when she was designated?
A. No.
Q. Do you know if there was someone before her doing it?
A. I know there has always been somebody before doing it.
Q. How do you know that?
A. Because I remember when we first started doing this, that we started with a coordinator. And I know at one time there was a lady named Chris Hayes that had that role, I think, before Florence.
Q. Was there a memo issued to HSD statewide saying, this is the NVRA point person and this is what they're supposed to do?
A. Only for Florence and only for Rachel can I remember that. There may have been at other times, but I don't have recall of the memorandum.
Q. So how do you know Chris Hayes was doing NVRA work for the agency?

A. She told me. She worked in central office when I was in the policy bureau, so I was aware of what her job assignments were.
Q. Okay. When was that?
A. Four years ago, I think. Four or five years ago, I think.
Q. So in '05 or '06?
A. Yes.
Q. Did she say who appointed her?
A. She never told me, no.
Q. Can she say what her duties were?
A. There was -- actually, I think it might have been longer than that. There was an incentive that one of her duties was that we were pushing to try to get some higher levels of registration and so there was -- she was coordinating some encouragement to offices. So we, for example, had an office -- the Roswell office had done very good that year, and so in some form or fashion they were commended for their efforts.
Q. I hear often the word "encouragement" or "encourage." Is that the extent of what HSD, the agency, is telling its offices to do whenever they realize there is a problem, that they encourage to do better?
A. No.
Q. Okay.
A. "Required mandate" is a very common word, too.
Q. How often is that used?
A. It's used very frequently.
Q. Okay. Like by which means?
A. You know, there are elements that I come out and do some direct mandates. I mean, the mandate on NVRA is you adhere to the regulations that are established, period. I mean, that is the mandate. Now, as far as doing drives and et cetera with getting more people that might want to register to vote, you know, you can't mandate what really the population is going to respond with. You can only encourage to really try to make an extra effort above the requirements to do that. And so that's kind of the differentiation of that. You know, everything from food stamps performance to TANF performance, you know, I or others are issuing mandates on a very regular basis.
Q. Aside from this GI on voter registration, what required mandates have you issued on voter registration in offices?
A. Like I indicated several months ago, I
with the NVRA. You said some of the ways HSD does this is through ME reviews, through internal office expectations. Is there anything else?
1. A. The tracking of the registration data.
2. The rest of it is pretty much the internal between the regional manager and the county director aside from the little sidebar conversations I might have with an oflcier or a manager.
3. Q. Let's talk a little bit about this GI.
4. A. GI.
5. Q. Well, actually, let's break and then -- because I feel like the policy might take a little bit longer.
6. (A recess was taken from 12:27 to 1:20.)
7. Q. So I just wanted to talk a little bit about the voter registration policies. I'd like to have this marked as Exhibit 5.
8. (Exhibit 5 marked.)
9. Q. I'm looking at the four pages. The first one is titled New Mexico Human Services Department Income Support Division Interdepartmental Memorandum, ISD-GI 08-01. It's dated January 22, 2008. Mr. Roth, do you recognize this document?
10. A. Yes.
11. Q. What is it?
12. A. It is the GI that we've been talking about that was the instructions and requirements that was issued to the field staff.
13. Q. Okay. And did you create this document?
14. A. I worked with our general -- one of our assistant general counselors on this.
15. Q. Who did you work with on it?
16. A. Carol Baca.
17. Q. Did anybody else contribute to this?
18. A. I don't believe so.
19. Q. Okay. Before January 22, 2008, was there a voter registration policy in place for HSD?
20. A. Again, the policy that we use is what was in the regulations by the secretary of state. This really is basically the same thing.
21. Q. Okay. So, say, from '95 when NVRA became effective to January 21 of 2008, the only policy HSD was using was that found in the secretary of state's NVRA manual?
22. A. That is the only thing I can remember.
23. Q. So what caused you to create this GI?
24. A. As indicated, we were in some teleconferences and discussions, and some of the items that were raised we felt it was important to re-emphasize to our field staff the requirements for their jobs.
25. Q. I'm just going to go over a few points in this, and maybe you can answer some questions about it. So I guess in the second paragraph it says something about -- and I'm looking at the second sentence of the second paragraph. "The secretary of state's state agency voter registration agent manual applicable to ISD field offices (Appendix B) and declination forms (in English and Spanish) may be accessed at 1.10.8.18 NMAC and is available through the Internet," and then it has the site. Is this currently how HSD offices are obtaining declination forms, by going to the site?
26. A. The -- well, I mean, currently it's built into the applications in the forms. Prior to that the -- the regulation piece that has the declination inside of it was what was printed. However, field offices did not go to this website and print it off. They had a copy that was issued to them back in '93 that was still being used.
27. Q. Okay. Wait -- tell me about that issuance.
28. A. Going back to the early days, the training packet -- and as far as I know, it's the same thing that is currently in the secretary of state's regs.
29. And at that time there was a one-page form that was sent out to the offices at the time that this act was created with the declination language in it, and it has the yes, no, signature, and the language.
30. Q. And this was sometime in '95 or just whenever that manual came out?
31. A. Yeah, right.
32. Q. What else was on that one-page form? Was it just like a declination form or was it something else?
33. A. It was just a declination form, and the language that was in it was directly what was in the regs from the secretary of state.
34. Q. Did HSD distribute the secretary of state's voter registration manual or did the secretary of state do that?
35. A. I don't remember.
36. Q. So in January of '08, how were offices getting declination forms?
37. A. You mean prior to this?
38. Q. Uh-huh.
39. A. The declination form was basically a form that was copied and copied mostly at the local office.
40. Q. And was that an instruction that HSD...
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1 offices had gotten from either hsd or the secretary
2 of state's office?
3 A. I have no idea. Just that we had a form
4 and we came up with a solution. And that was the
5 only way that I remember we could get a supply.
6 Q. How did offices before the issuance of
7 this GI get voter registration applications?
8 A. So you mean the actual registration form?
9 Q. Uh-huh.
10 A. That goes back to earlier to where they
11 obtained those from the county clerk.
12 Q. And who had the obligation for getting
13 those forms? Would the county clerk just supply
14 offices with them or would they wait for a county
15 office to contact them?
16 A. They would do both. I can only speak from
17 my own experience in an office. And the county
18 clerk would come by to pick up what we had and if we
19 needed additional supplies, she would provide it to
20 us.
21 Q. Okay. Now I'm looking at no. 2. This is
22 under responsibilities of agency personnel. It's on
23 page 2. It says, "Please use the declination forms
24 prescribed by the secretary of state's office unless
25 the applicant has been issued one the following

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1 forms containing a declination box." Then it lists
2 a series of forms. It looks like three forms.
3 So tell me the process. Did
4 caseworkers or interviewers have a stack of
5 declinations in the office that they would provide a
6 client with if the application didn't have a
7 declination question in it?
8 A. Yes, that's the procedure.
9 Q. Was each caseworker or interviewer
10 required to do that on his own or did the site
11 coordinator kind of attach a declination form to a
12 benefits application that didn't have a declination
13 question in it?
14 A. That may happen, but I'm not aware of
15 that. The goal was to meet the requirement by
16 utilizing the declination form. So the expectation
17 was staff would have that available.
18 Q. Okay. But there was no specific
19 instruction on how that was to be done or who was to
20 do it?
21 A. Not in a specific nature as far as, you
22 know, it was a requirement that the office needed to
23 do that.
24 Q. At any point since voter registration has
25 been provided by the agency, has it been anyone's

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1 job to check and see if declination forms are being
2 filed in applicants' files?
3 A. Nobody had a job to do that.
4 Q. Does anybody now?
5 A. Not that I'm aware of. Again, my own
6 experience is when I was in a field office, I don't ever
7 recall that being done.
8 Q. Okay. Now I'm looking at page 4 under
9 division coordinator. It says, "the isd division
10 coordinator is florence gonzales, who is available
11 at this number or e-mail. isd field offices are
12 requested to provide isd central office the
13 following by providing the following information to
14 ms. gonzales," and then it asks for monthly data
15 and, you know, that contact information is kept
16 updated.
17 After January of '08, how many
18 offices started providing this kind of data? And
19 the reason I ask is because, you know, it looks here
20 as if -- it says the offices are requested, but it
21 didn't necessarily say, okay, this is something that
22 you have to do. And so what I'm wondering is, after
23 this was issued, whether some other communication
24 went out saying this is actually a requirement to do
25 this monthly data.

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1 A. I can't remember any further request --
2 you know, request along that line of saying, you
3 know, you must provide that. I do know that the
4 division coordinators would follow up if they did
5 not hear from the county.
6 Q. Okay. I see. How do you know that?
7 A. Because as I indicated earlier, I
8 occasionally was cc'd on some of those requests, but
9 it was very rare that we would not get a response
10 from a site.
11 Q. Because you were at this point reviewing
12 the data?
13 A. Yes.
14 Q. Okay. If you saw that an office hadn't
15 reported anything, what would you do?
16 A. Like I indicated, like rachel, who has
17 been doing it since pretty soon after this
18 memorandum went out, she has done contacts, but I
19 don't remember her ever bringing to my attention
20 someone has not responded to a follow-up contact
21 saying it's the fifth of the month, I still haven't
22 gotten your stuff yet.
23 Q. When creating this, aside from like
24 meeting with carol baca and any of the other
25 attorneys, did you consult anybody else, whether

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1. Response in -- anything?
2. Q. Yeah.
3. A. I don't remember receiving any type of response.
4. Q. Did you get any follow-up questions from anyone?
5. A. No.
6. Q. How did you send this GI out?
7. A. This would have been sent the same way.
8. Q. This would have been sent in a mass e-mail to all the staff saying attached is ISG GI 08-37.
9. A. I'm looking at the first sentence of the GI and it says, "Please note that ISD's duties under the national voter registration act are year-long."
10. Why did you put that on there?
11. A. To put some additional focus. Again, like indicated, we did a lot of corrective action efforts in 2008 when a lot of the concerns were raised, and we wanted to re-emphasize to staff that it's more than just trying to get people registered prior to a major election but it is a part of their job duties for the entire year.
12. Q. When you say "corrective action," you don't mean corrective action plans, do you?
13. A. No.

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1. have the understanding that they are re-emphasizing this to their office staff?
2. A. Yes.
3. Q. Okay. But nothing more than that?
4. A. Correct.
5. Q. When did HSD offices start using agency site codes?
7. Q. Will the GI be updated again to reflect, you know, that I guess all new applications, recertifications, change of address forms have a declination question inserted or do you plan on reissuing the GI?
8. A. I like that idea, to reissue it --
9. Q. It was hers.
10. A. At this point, no, I can't say I had any plans. But those forms were released with a memorandum saying these were the official forms, to begin using them.
11. Q. So before January of '08, okay before that first GI was created, what was HSD doing to insure that all offices were complying with the voter registration requirement?
12. A. Before that I cannot account to how that was being monitored or what steps were being taken

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1. because I just can't remember any, except for I do remember back in 2004-ish, and I had mentioned that earlier, that there was an energized effort to try to stimulate offices to increase their activity.
2. But I cannot remember any memorandums that went out at that time.
3. Q. And no, I guess, agent-wide trainings on NVRA?
4. A. Not that I'm aware of. My job function was in the policy bureau where that was separation, so there may have been activities that I'm totally unaware of.
5. Q. And before you were the NVRA kind of agency head, and I'm not talking about the division coordinators, who was the head before you?
6. A. That would have been the division director
7. Q. The division director?
8. A. Yes.
9. Q. Who was that?
10. A. That would have been Fred Sandoval at that time.
11. Q. What was he doing?
12. A. As far as his activity around NVRA? I don't recall what he was or wasn't doing.

42 (Pages 165 to 168)